IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.423 OF 2005
IN
APPEAL NO.157 OF 2005
IN
C.C.NO.342/S OF 2002

Mr.Jayadeo Vasudeo Bilal. ..Applicant.

V/s.

Mr.Shrigopal D. Agarwal & Anr. ..Respondents.

Mr.Girishkumar V. Pandya for applicant.

Mr.Y.S.Shinde, APP for State.

CORAM: A.M.KHANWILKAR,J
DATE : DECEMBER 12, 2005.

P.C. :

1. This petition was dismissed for default in the morning Session. However, counsel for the applicant after giving notice to the respondent No.1 who appears in person as well as advocate for respondent No.2 moved this court for restoring the petition and for hearing the same on merit on the ground that at the relevant time he was not present in the court as he was busy in some other court. For the reason mentioned, the order dismissing the petition for default passed in the morning session is recalled. Revision Applciation is restored to its original number, to be heard on merits, forthwith, by consent.

2. After hearing counsel for the Applicant, I am not at all impressed by the submission canvassed across the bar. Counsel for the Applicant relying on the decision of the Apex Court in the case of **Palaniappa Gounder v/s. The State of Tamil Nadu & Ors. reported in AIR 1977 Supreme Court 1323** and another decision in the case of **Htanda Meah v/s.Anamale Chettyar reported in AIR 1936 Rangoon 247,** would contend that the order as passed by the Appellate court cannot be sustained. This submission does not commend to me. None of the above decisions are relevant on the point in issue. While entertaining the appeal filed by the Applicant, the appellate court has called upon the Applicant to deposit the amount awarded by the trial court towards compensation before 10th June, 2005. That being discretionary and interlocutory order passed by the appellate court, no interference is warranted in the revisional jurisdiction. In fact revisional remedy is not available against such order. Even if petition is assumed to be instituted under section 482 of the Code or for that matter Article 227 of the Constitution of India, I see no reason to interfere with the discretionary order passed by the appellate court while entertaining the appeal. Hence

dismissed.

3 Counsel for the Applicant submits that Applicant may be given some time to deposit the requisite amount as directed by the appellate court. Such request be made before the appellate court, if so advised within one week from today, failing which it will be open for the authorities to proceed against the applcant in accordance with the law.